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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

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7 WAYNE A. PORRETTI,

8 Plaintiff,

9 v.

10 DZURENDA, *et al.*,

11 Defendants.

Case No. 2:17-cv-01745-RFB-CWH

ORDER

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13 Plaintiff is an inmate incarcerated in the Nevada Department of Corrections who alleges
14 that he is being denied necessary anti-depressant and anti-psychotic medication and, as a result, is
15 suffering from depression, paranoia, delusions, and hearing voices. On April 12, 2019, the Court
16 issued an Order granting Plaintiff's Motion for Preliminary Injunction and instructing Defendants
17 to provide Plaintiff a medical evaluation to assess Plaintiff's current medical condition and needs.
18 ECF No. 106.

19 The parties dispute which medical professional should conduct the evaluation. Plaintiff
20 has argued that Norton Roitman, M.D., is an appropriate evaluator based on his treatment history
21 with Plaintiff. Defendants have expressed their preference to provide a separate evaluator
22 contracted with the prison with no treating history of Plaintiff. The Court deferred ruling on this
23 issue in its April 12, 2019 order to provide Defendants an opportunity to submit the name of an
24 alternative evaluating physician. On April 19, 2019, Defendants proposed that the evaluation be
25 performed by Wade F. Exum, M.D., a contracted psychiatrist who examines and treats patients at
26 Northern Nevada Correctional Center. ECF No. 113.

27 The Court finds no need to hold a hearing at this time to determine which provider will
28 conduct Plaintiff's medical examination. The Court has found, and continues to find, that Dr.

1 Roitman is a credible physician with an established record as a medical expert with this Court.
2 The Court does not find that Dr. Roitman is biased by his treatment history with Plaintiff; in fact,
3 the Court finds this treatment history to be an asset necessary to further the Court's goal of
4 determining Plaintiff's medical needs at this time. However, the Court additionally finds that it is
5 both helpful and necessary for Plaintiff to be evaluated in-person by a credible psychiatrist
6 contracted with Defendants, as Defendants are obligated to oversee Plaintiff's ongoing care. The
7 Court therefore determines that its injunctive relief will take the form of two in-person medical
8 evaluations of Plaintiff, one conducted by Dr. Roitman and one conducted by Dr. Exum.

9 The Court reiterates its finding, as detailed in its April 12, 2019 order, that it is appropriate,
10 legal, and necessary for Defendants to cover all costs associated with these two evaluations based
11 on Defendants' constitutional obligation to provide Plaintiff with adequate medical treatment. See
12 Estelle v. Gamble, 429 U.S. 97, 103 (1976).

13 **IT IS THEREFORE ORDERED** that Defendants arrange and pay for two in-person
14 medical evaluation of Plaintiff by June 14, 2019, one by his former treating psychiatrist Dr.
15 Roitman and one by Defendants' offered medical provider Dr. Exum. Dr. Roitman and Dr. Exum
16 are each instructed to prepare a report regarding their evaluation for submission to this Court. The
17 report must address (1) a current medical diagnosis of Plaintiff including a discussion of his
18 medical history; (2) whether Plaintiff's prior prescriptions for Seroquel and Wellbutrin are
19 medically necessary in light of his medical history, diagnoses, and present-day symptoms; (3) the
20 existence of and efficacy of alternative medications and/or treatments; and (4) the extent of regular
21 monitoring and in-person treatment that will be required for Plaintiff for any future medical
22 treatment. The reports of these physicians should be submitted to the Court by June 28, 2019.
23 Defendants shall make the arrangements for these appointments and provide a copy of this order
24 and the Court's previous order (ECF No. 106) on the preliminary injunction to both physicians.

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1 **IT IS FURTHER ORDERED** that Plaintiff's Motion (ECF No. 111), which the Court
2 construes as a request that the Court decline to consider Defendants' proposed medical examiner,
3 is DENIED. To the extent Plaintiff's appears to seek sanctions against Defendants in his Motion,
4 the Court finds no basis for sanctions against Defendants at this time.

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6 DATED: May 8, 2019.

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RICHARD F. BOULWARE, II
United States District Judge